

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IMMERSION CORPORATION,
Plaintiff,
v.
FITBIT, INC.,
Defendant.

Case No. 17-CV-03886-LHK
**TENTATIVE ORDER RE CLAIM
CONSTRUCTION AND CONTINUING
MARKMAN HEARING TO 2:30 P.M.**
Re: Dkt. Nos. 66, 70, 71

The *Markman* hearing set for 1:30 p.m. on June 21, 2018 is HEREBY CONTINUED to 2:30 p.m. on June 21, 2018.

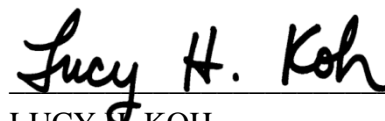
Having considered the parties' claim construction briefing, the Court tentatively plans to rule as follows.

| Issue | Tentative Ruling |
|--|--|
| Whether judicial estoppel precludes Fitbit from asserting an indefiniteness argument | Judicial estoppel does not preclude Fitbit from asserting an indefiniteness argument |
| Construction of "user-independent event" (claim 19 of '105 Patent) | Plain and ordinary meaning |

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|---|---|---|
| 1 | Construction of “haptic feedback device” (claim 19 of ’105 Patent) | “A device that provides haptic feedback” |
| 2 | Construction of “one or more processors configured to receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event” (claim 19 of ’105 Patent); whether the term is indefinite | Not indefinite, but a close call. <u>Function</u> : “receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event” <u>Structure</u> : A microprocessor or other electronic controller, and equivalents thereof, that performs the algorithm of receiving an input signal associated with a user-independent event, and generating one or more electronic signals that define the form of a haptic effect based on the user-independent event |
| 3 | Construction of “generate a force signal based on the input signal” (claim 19 of ’105 Patent) | No construction necessary given agreement term is governed by § 112(6). |
| 4 | Construction of “periodic” (claim 14 of ’299 Patent) | “Occurring at regular intervals” |
| 5 | Construction of “a processing device that receives the sensor output and accumulates counts associated with the sensor output, the processing device providing an output to the vibrotactile device once a threshold associated with the accumulated counts is reached” (claim 14 of ’299 Patent); whether the term is indefinite | Not indefinite. <u>Function</u> : “receives the sensor output and accumulates counts associated with the sensor output, and provides an output to the vibrotactile device once a threshold associated with the accumulated counts is reached” <u>Structure</u> : Processing device 22 and equivalents thereof, that performs the algorithm in Figure 3 and generating one or more electronic signals that define the form of a haptic effect |

21 **IT IS SO ORDERED.**

23 Dated: June 21, 2018

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25 LUCY H. KOH
26 United States District Judge